



Issue Date January 13, 2012

Audit Report Number 2012-PH-1004

TO: Nadab O. Bynum, Director, Office of Community Planning and Development,
Philadelphia Regional Office, 3AD
//signed//

FROM: John P. Buck, Regional Inspector General for Audit, Philadelphia Region,
3AGA

SUBJECT: Luzerne County, PA, Generally Administered Its Community Development
Block Grant Recovery Act Funds According to Applicable Requirements

HIGHLIGHTS

What We Audited and Why

We audited Luzerne County, PA's administration of its Community Development Block Grant funds that it received under the American Recovery and Reinvestment Act of 2009. We selected the County for an audit because we received a complaint alleging that the County may have misappropriated Block Grant funds and because of our mandate to audit Recovery Act activities. Our objective was to determine whether the County obligated, expended, and reported its Block Grant funds provided under the Recovery Act according to Recovery Act and applicable U.S. Department of Housing and Urban Development (HUD) requirements.¹

What We Found

The County generally administered its Block Grant Recovery Act funds in accordance with Recovery Act and applicable HUD requirements. However, a nonprofit subrecipient improperly awarded a contract for street improvements valued at \$145,152, and the County did not screen subrecipients to prevent

¹ We plan to conduct a separate audit of the County's non-Recovery Act Block Grant funds.

debarred, suspended, or ineligible subrecipients from participating in funded activities. We found no evidence to substantiate misappropriation of Recovery Act funds.

What We Recommend

We recommend that HUD require the County to (1) provide documentation to demonstrate that \$145,152 expended for street improvement work was fair and reasonable or reimburse its program from non-Federal funds for any amount that it cannot support, (2) provide training to its subrecipients on proper procurement procedures and the use of change orders, and (3) develop and implement controls to screen its subrecipients against the General Services Administration's Excluded Parties List System.

For each recommendation in the body of the report without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-4. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We provided a draft audit report to the County on December 20, 2011, and discussed it with County officials at an exit conference on January 3, 2012. The County provided written comments to the draft report on January 6, 2012. It did not disagree with the conclusions and recommendations in the report. The complete text of the County's response can be found in appendix B of this report.

TABLE OF CONTENTS

Background and Objective	4
Results of Audit	
Finding: The County Generally Administered Block Grant Funds in Accordance With Applicable Requirements	6
Scope and Methodology	12
Internal Controls	14
Appendixes	
A. Schedule of Questioned Costs	15
B. Auditee Comments	16

BACKGROUND AND OBJECTIVE

Luzerne County, PA, is a Community Development Block Grant entitlement grantee. The U.S. Department of Housing and Urban Development (HUD) annually awards grants to entitlement grantees to carry out a wide range of community development activities directed toward revitalizing neighborhoods, economic development, and providing improved community facilities and services. The County consists of 76 municipalities, governed by a three-member board of commissioners. The County manages its community development programs through its Office of Community Development located at 54 West Union Street, Wilkes-Barre, PA. The executive director of the Office of Community Development is Mr. Andrew D. Reilly.

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009. The purpose of the Recovery Act was to jumpstart the Nation's ailing economy, with a primary focus on creating and saving jobs in the near term and investing in infrastructure that will provide long-term economic benefits. This legislation included a \$1 billion appropriation of community development funds to carry out Block Grant programs as authorized under Title 1 of the Housing and Community Development Act of 1974.

On June 4, 2009, the County received more than \$1.3 million in Block Grant funds under the Recovery Act. The County planned to use the grant funds on the 13 activities shown in the table below.

Activity	Revised budget	Original budget
Kingston-Edwardsville Neighborhood Revitalization Strategy Area	\$227,972	\$70,000
Ross Township street improvements	204,984	280,000
Earth Conservancy street improvements	147,336	147,642
Fairmont Township road reconstruction	134,488	200,000
Luzerne County administrative costs	134,436	134,436
Forty Fort Boro ADA* pool improvements	125,000	125,000
Kingston library improvements	120,000	120,000
Swoyerville Boro street improvements	100,000	100,000
Newport Township demolition of four buildings	50,000	50,000
Conyngham Township park improvements	40,000	40,000
Plains Township demolition of three structures	23,150	40,000
Ruth's Place Shelter renovations	25,000	25,000
Wilkes-Barre Township ADA recreational facility improvements	12,000	12,000
Totals	\$1,344,366	\$1,344,078

* ADA - Americans with Disabilities Act of 1990

The Recovery Act imposed additional reporting requirements and more stringent obligation and expenditure requirements on the grant recipients beyond those applicable to the ongoing Block Grant program grants. Transparency and accountability were critical priorities in the funding and implementation of the Recovery Act.

The regulations at 24 CFR (Code of Federal Regulations) 85.40 state that grantees are responsible for managing the day-to-day operations of grant- and subgrant-supported activities.

Our objective was to determine whether the County obligated, expended, and reported its Block Grant funds provided under the Recovery Act according to Recovery Act and applicable HUD requirements.

RESULTS OF AUDIT

Finding: The County Generally Administered Block Grant Funds in Accordance With Applicable Requirements

The County generally obligated, expended, and reported its Block Grant funds in accordance with Recovery Act and applicable HUD requirements. However, a subrecipient improperly awarded a contract for street improvements valued at \$145,152, and the County did not screen subrecipients against the General Services Administration's Excluded Parties List System. This condition occurred because the subrecipient and the County believed that there was no problem with the procurement for the street improvement project and the County believed that HUD checked the subrecipients. As a result, the County could not demonstrate that the expenditure of \$145,152 for street improvements was fair and reasonable, and it had no assurance that its subrecipients were not prohibited from doing business with HUD.

The County Submitted an Amended Action Plan as Required

In May 2009, the County submitted a substantial amendment to its fiscal year 2008 annual action plan as required. The annual action plan outlined the activities the County would undertake using the Block Grant funds it received. The substantial amendment to the fiscal year 2008 annual action plan was required to record the activities the County planned to undertake using its Block Grant Recovery Act funds. We reviewed the Kingston-Edwardsville Neighborhood Revitalization Strategy Area activity and the Ross Township and Earth Conservancy street improvement activities. These activities were eligible to be funded with Recovery Act funds. The following pictures show some of the work completed by the County with its Recovery Act funds.



Earth Conservancy street improvements (completed)



Kingston-Edwardsville acquisition of six blighted properties (completed)

The County Was Complying With the Expenditure Deadline

The Recovery Act required the County to expend 100 percent of its grant by September 30, 2012. As of September 2011, the County had expended 92 percent of its grant. It maintained documentation submitted by its subrecipients, such as contractor invoices, to support its expenditures. The documentation adequately supported the payments.

The County Complied With Davis-Bacon Act Requirements

The Recovery Act required that all laborers and mechanics be paid the prevailing wage rates in accordance with the Davis-Bacon Act. HUD Handbook 1344.1, REV-1, required the County to perform wage interviews and review the contractor's weekly payrolls. We reviewed five payrolls associated with the Earth Conservancy and Ross Township street improvement activities and found that these subrecipients complied with the above requirements.

The County Reported Accurate Job Creation Information

The County accurately reported the number of jobs created or retained as a result of its Recovery Act activities.² Guidance issued in Office of Management and Budget (OMB) Memorandum 10-08, dated December 18, 2009, defines jobs created or retained as jobs funded during the quarter by the Recovery Act expressed as full-time equivalents. The memorandum also provides guidance on how to calculate full-time equivalents. Full-time equivalents were to be estimated by dividing the total number of hours worked and funded by the Recovery Act within the reporting period by the quarterly hours in a full-time schedule. We reviewed the County's June 2011 quarterly report on the Federal reporting Web site and found that it accurately reported job creation information.

The County Generally Complied With Procurement Requirements

The County generally complied with HUD procurement regulations and guidance. We reviewed two contracts valued at \$348,027 for street improvement activities. The County entered into subrecipient agreements with a municipality (Ross Township) and a nonprofit (Earth Conservancy) subrecipient. During our review of the two contracts, we found that the subrecipients

- Received an adequate number bids to ensure that they awarded contracts competitively as required by 24 CFR 85.36 and 84.43. The subrecipients advertised and competitively awarded the contracts and maintained sufficient documentation to support the procurement.

² Grant recipients are required to report spending and performance data, including estimates of the number of jobs created and retained, on the Federal reporting Web site, www.recovery.gov.

- Complied with HUD guidance for implementing the “buy American” requirement of the Recovery Act in HUD Office of Community Planning and Development Notice CPD-09-05.

A Subrecipient Improperly Awarded a Contract

Earth Conservancy improperly awarded street improvement work valued at \$145,152 by awarding the contract to the same contractor that prepared the independent cost estimate for the project and increasing the size of the project by 46 percent via a change order the day before the effective date of the contract. Awarding the contract to the same company that prepared the independent cost estimate created an unfair advantage for the contractor. Moreover, the subrecipient increased the value of the contract by \$47,815 (a 49 percent increase in the amount paid to the contractor) via a change order. As a result, the value of the contract increased from \$97,337 to \$145,152. In this case, the change order summary was labeled “570 linear foot road extension,” and was effective October 27, 2009, the day before the effective date of the contract itself. This change order constituted a material expansion of the project because contractors initially submitted bids based on a road extension project with a scope of 1,228 linear feet. The change order increased the size of the project by 46 percent.

The regulations at 24 CFR 84.43 state that all procurement transactions must be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient should be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. The regulations at 24 CFR 84.44 state that recipients must make available procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., when a proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

Earth Conservancy should have executed a new procurement action and given all contractors an opportunity to bid on the larger scope project. Because the subrecipient improperly awarded this work, there was no assurance that the price paid was fair and reasonable. As a result, the \$145,152 paid for this work was unsupported.

The County Did Not Screen Subrecipients To Identify Excluded Parties

The County did not screen subrecipients to prevent debarred, suspended, or ineligible subrecipients from participating in funded activities. The regulations at 24 CFR 570.609 prohibit the use of debarred, suspended, or ineligible contractors or subrecipients. The regulations at 24 CFR 85.35 state that grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs. The County did not screen its nonprofit and social services subrecipients against the General Services Administration's Excluded Parties List System. It believed that HUD checked the subrecipients since their Data Universal Numbering System numbers were entered into HUD's drawdown and reporting system for formula grant programs including the Block Grant program. We discussed this issue with County officials during the audit, and they informed us that the County had started screening its nonprofit and social services subrecipients against the General Services Administration's Excluded Parties List System.

Conclusion

The County generally administered its Block Grant Recovery Act funds in accordance with the Recovery Act and applicable HUD requirements. The conditions identified by the audit occurred because the subrecipient and the County believed that there was no problem with the procurement for the street improvement project and the County believed that HUD checked for excluded parties. As a result, the County could not demonstrate that the expenditure of \$145,152 for street improvements was fair and reasonable, and it had no assurance that its subrecipients were not prohibited from doing business with HUD. To resolve the issues identified by the audit, the County needs to demonstrate that \$145,152 expended for street improvement work was fair and reasonable and develop and implement controls to ensure that it screens subrecipients against the General Services Administration's Excluded Parties List System.

Recommendations

We recommend that the Director of HUD's Philadelphia Office of Community Planning and Development require the County to

- 1A. Provide documentation to demonstrate that \$145,152 expended for street improvement work was fair and reasonable or reimburse its program from non-Federal funds for any amount that it cannot support.
- 1B. Provide training to its subrecipients on proper procurement procedures and the use of change orders.
- 1C. Develop and implement controls to screen its subrecipients against the General Services Administration's Excluded Parties List System.

SCOPE AND METHODOLOGY

We conducted the audit from July through December 2011 at the County's office located at 54 West Union Street, Wilkes-Barre, PA, and at our office located in Philadelphia, PA. The audit covered the period February 2009 through June 2011 but was expanded when necessary to include other periods.

To achieve our audit objective, we

- Relied in part on computer-processed data in the County's database. We used the computer-processed data to select activities for review and verify the County's draws of funds from HUD's automated drawdown and reporting system. Although we did not perform a detailed assessment of the reliability of the data, we did perform a minimal level of testing and found the data to be adequate for our purposes.
- Obtained relevant background information.
- Reviewed the Recovery Act, OMB implementation guidance, and applicable HUD regulations and guidance.
- Reviewed minutes from the meetings of the County's board of commissioners.
- Reviewed the County's policies and procedures related to procurement, monitoring, and reporting of grant funds, expenditures, and disbursements.
- Reviewed the County's fiscal year 2009 audited financial statements and 2010 draft audited financial statements.
- Interviewed relevant County and subrecipient staff and officials from HUD's Philadelphia Office of Community Planning and Development.
- Reviewed relevant subrecipient agreements, monitoring and reporting records, and financial records.
- Selected the Kingston-Edwardsville Neighborhood Revitalization Strategy Area activity and the Ross Township and Earth Conservancy street improvement activity for review from the list of 13 activities the County included in its substantial amendment to its fiscal year 2008 annual action plan because the \$580,292 in funds budgeted to those activities represented 43 percent of the County's \$1.3 million grant.
- Reviewed two contracts valued at \$348,027 for the Ross Township and Earth Conservancy street improvement activities. These were the two largest contracts associated with the three activities that we reviewed.

- Reviewed \$479,115 in expenditures (36 percent of the County's grant) for the Kingston-Edwardsville Neighborhood Revitalization Strategy Area activity (\$126,765) and the Ross Township (\$204,984) and Earth Conservancy (\$147,366) street improvement activities. The payments were supported by invoices and other supporting documentation.
- Reviewed the County's June 2011 and September 2011 quarterly reports on the Federal reporting Web site.
- Visited the physical locations related to the Kingston-Edwardsville Neighborhood Revitalization Strategy Area activity and the Ross Township and Earth Conservancy street improvement activities to verify that the planned activities were either underway or completed.
- Reviewed five payrolls associated with the two contracts for the Earth Conservancy (three November 2009 payrolls) and Ross Township (two October 2009 payrolls) street improvement activities to determine whether the County ensured that its subrecipients complied with Davis-Bacon Act requirements. These were the only payrolls that charged labor to the activities during the respective months.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Policies and procedures that the County implemented to ensure that activities met established program objectives and requirements.
- Policies and procedures that the County implemented to ensure that resource use was consistent with applicable laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

We evaluated internal controls related to the audit objective in accordance with generally accepted government auditing standards. Our evaluation of internal controls was not designed to provide assurance regarding the effectiveness of the internal control structure as a whole. Accordingly, we do not express an opinion on the effectiveness of the County's internal control.

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS

Recommendation number	Unsupported 1/
1A	\$145,152

- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.

Appendix B Auditee Comments



ANDREW D. REILLY
Executive Director

E-MAIL:
luzcoed@luzernecounty.org

January 6, 2012

Mr. John P. Buck
Regional Inspector General for Audit
HUD-Office of Inspector General
Wanamaker Building, Suite 10205
100 Penn Square East
Philadelphia, PA 19107-3380

Dear Mr. Buck:

I am writing to acknowledge receipt of the draft audit report prepared by your office. I would also like to thank you and your staff for discussing the findings and recommendations contained in the audit with us on January 3, 2012.

With regard to recommendation 1A, it is our intention to seek an independent review of the project from a professional engineer to ensure reasonableness of the costs incurred. Once the review is complete we will forward the information to the Director of the Office of Community Planning and Development.

Should you like to discuss this issue further please contact me at your convenience.

Sincerely,

Andrew D. Reilly
Executive Director